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October 26, 1962

Dear Mr. Ball:

I am submitting herewith, for prompt consideration and referral to the President, a draft Executive Order entitled "Prohibitions on Vessels Engaged in Trade with Cuba", and a draft Presidential determination closing United States ports to Soviet vessels pursuant to section 1 of that Order.

The draft Executive Order has been prepared in the light of the President's proclamation of October 23, 1962. It differs in some substantive respects from the draft which was informally submitted to the Bureau of the Budget on October 19, 1962, from the inter-agency task force concerned with this matter.

First, the preamble has been rewritten to refer to the proclamation of October 23, 1962, and to include an express finding of danger to the national security as required by the Impediment Act.

Second, section 1 has been expanded so that all vessels of a country are barred from United States ports if the President determines that vessels of such country have either been carrying arms to Cuba or have been violating the quarantine.

Third, section 2 is no longer based upon the "continuous voyage" concept; instead, it closes United States ports for 120 days to any vessel which has carried goods between Cuba and the Sino-Soviet bloc.

The draft Executive Order has been approved at the technical level by the agencies principally concerned, but does not necessarily reflect their substantive views concerning the restriction of trade with Cuba.

Sincerely yours,

/s/ George W. Ball

Under Secretary

Enclosures: (1) DRAFT

The Executive

David S. Ball, Director,
Division of the Budget.

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First, the preamble has been rewritten to refer to the proclamation of October 23, 1962, and to include on express a finding of danger to the national security as required by the Espionage Act.

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Sincerely yours,

George W. Ball
Under Secretary

Enclosures

The Honorable
David C. Bell, Director
Bureau of the Budget

10/26/62

EXECUTIVE ORDER

PROMULGATION ON VESSELS ENGAGED IN TRADE WITH CUBA

WHEREAS on October 23, 1962, the President of the United States proclaimed a quarantine against the delivery of offensive weapons to Cuba because of the establishment by the Sino-Soviet powers of an offensive military capability in Cuba;

WHEREAS the security of the United States is endangered by reason of disturbances of the international relations of the United States caused by the establishment of such an offensive military capability in Cuba; and

WHEREAS the carriage of arms and other goods from the Sino-Soviet bloc to Cuba by vessels of the free world have the effect of supporting the hostile actions taken by the Sino-Soviet powers in concert with the Communist regime in Cuba:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including the Trading with the Enemy Act, as amended (50 U.S.C. App. 1 et seq.), the Espionage Act, as amended (50 U.S.C. 191 et. seq.), and the Defense Production Act of 1950, as amended (50 U.S.C. App. 2071 et seq.), and as President of the United States, it is hereby ordered as follows:

SECTION 1. CLOSING OF UNITED STATES PORTS TO VESSELS OF COUNTRIES WITH VESSELS CARRYING ARMS TO CUBA OR VIOLATING THE QUARANTINE OF CUBA.

No vessel shall enter any port of the United States if it is registered under the laws of a foreign country as to which the President has determined that vessels registered under the laws of such country (1) have been engaged in carrying weapons of war, munitions, or military equipment to Cuba, or (2) have been failing or refusing to respond to, or to comply with, directions issued to enforce the quarantine proclaimed on October 23, 1962.

SECTION 2. CLOSING OF UNITED STATES PORTS TO VESSELS CARRYING GOODS BETWEEN SINO-SOVIET BLOC AND CUBA.

No vessel registered under the laws of a foreign country shall enter any port of the United States if, within 120 days prior to the date of such entry, it has carried any material, commodity, or cargo of any kind, other than mail, originating in a country or area of the Sino-Soviet bloc and destined for Cuba, or originating in Cuba and destined for a country or area of the Sino-Soviet bloc.

SECTION 3. PROHIBITIONS AGAINST ENTRY INTO CUBAN PORTS AND CARRIAGE OF CUBAN GOODS BY UNITED STATES-FLAG VESSELS AND UNITED STATES-OWNED VESSELS.

(a) No vessel registered under the laws of the United States shall enter any port of Cuba or take on and carry any material, commodity, or cargo of any kind originating in, or destined for, Cuba.

(b) No vessel registered under the laws of a foreign country but owned or controlled by one or more persons, corporations, or other associations subject to the jurisdiction of the United States, shall enter any port of Cuba or take on and carry any material, commodity, or cargo of any kind originating in, or destined for, Cuba.

SECTION 4. PROHIBITION AGAINST UNITED STATES GOVERNMENT-SPOKED SHIPMENTS ON VESSELS OWNED OR CONTROLLED BY PERSONS WITH VESSELS CARRYING GOODS BETWEEN SINO-SOVIET BLOC AND CUBA.

No vessel shall carry, whether from a port of the United States or from a foreign port, (1) any material, commodity, or cargo of any kind which is directly or indirectly procured, contracted for, donated, exchanged, sold for export, or financed by any department or agency of the United States Government, or (2) any material, commodity, or cargo of any kind the costs of shipment of which are directly or indirectly paid for, or otherwise financed, by any department or agency of the United States Government, if --

(A) such vessel has, on or after the effective date of this Order, taken on and carried any material, commodity, or cargo of any kind originating in a country or area of the Sino-Soviet bloc and destined for Cuba, or originating in Cuba and destined for a country or area of the Sino-Soviet bloc, or

(B) such vessel is owned or controlled by one or more persons, corporations, or other associations any one or more of which own or control, or have, on or after the effective date of this Order, owned or controlled, any vessel which has, on or after such date,

taken on and carried any material, commodity, or cargo of any kind originating in a country or area of the Sino-Soviet bloc and destined for Cuba, or originating in Cuba and destined for a country or area of the Sino-Soviet bloc.

SECTION 5. ENFORCEMENT BY SECRETARY OF TREASURY.

(a) The Secretary of the Treasury shall, within the scope of his responsibilities under this Order, issue such rules and regulations as he determines to be necessary to secure compliance with sections 1, 2, 3(b), 4, 5, and 9(b), and shall make such exceptions to such sections as he determines, after consultation with the Secretary of State, to be in the national interest.

(b) The Secretary of the Treasury shall require, as a condition of entry into any port of the United States by any vessel registered under the laws of a foreign country, that the owner, or, if such vessel is under charter, that the charterer furnish to the Collector of Customs at such port a certificate, in such form as the Secretary of the Treasury may specify, stating the facts required to establish the eligibility of the vessel to enter such port under the terms of section 2.

(c) The Secretary of the Treasury shall require, as a condition of departure from any port of the United States by any vessel bound for a foreign port, that the owner and, if such vessel is under charter, that the charterer furnish to the Collector of Customs at such port a certificate or certificates, in such form as the Secretary of the Treasury may specify, stating (1) that the vessel is not

carrying any material, commodity, or cargo of any kind described in section 4(1) or 4(2), or (2) that neither such vessel nor any other vessel owned or controlled, on or after the effective date of this Order, by the owner or by the charterer, if any, has taken on and carried, on or after such date, any material, commodity, or cargo of any kind originating in a country or area of the Sino-Soviet bloc and destined for Cuba, or originating in Cuba and destined for a country or area of the Sino-Soviet bloc. In order to facilitate the implementation of this subsection, each agency or department referred to in sections 4(1) and 4(2) shall, to the maximum extent practicable, assure that any material, commodity, or cargo of any kind described in sections 4(1) and 4(2) is so identified.

(d) The Secretary of the Treasury (1) shall prohibit any vessel from carrying any material, commodity, or cargo of any kind described in section 4(1) or 4(2) from any port of the United States if such vessel appears on the lists published by the Secretary of Commerce under section 8(a), and (2) shall prohibit any vessel registered under the laws of a foreign country from entering any port of the United States if such vessel appears on the lists published by the Secretary of Commerce under section 9(d).

(e) The Secretary of the Treasury shall promptly transmit to the Secretary of Commerce for review in accordance with section 9(a) all certificates furnished under this section.

SECTION 6. ENFORCEMENT BY AGENCIES AND DEPARTMENTS OF UNITED STATES GOVERNMENT SPONSORING SHIPMENTS OF GOODS.

(a) Any department or agency of the United States Government which (1) directly or indirectly procures, contracts for, donates, exchanges, sells for export, or finances any material, commodity, or cargo of any kind shipped from a foreign port on any vessel, or (2) directly or indirectly pays for, or otherwise finances, the costs of shipment from a foreign port of any material, commodity, or cargo of any kind on any vessel, shall insure that there is secured from the owner and the charterer, if any, of such vessel, a certificate or certificates stating that neither such vessel, nor any other vessel owned or controlled, on or after the effective date of this Order, by the owner, or by the charterer, if any, has taken on and carried, on or after such date, any material, commodity, or cargo of any kind originating in a country or area of the Sino-Soviet bloc and destined for Cuba, or originating in Cuba and destined for a country or area of the Sino-Soviet bloc.

(b) The Secretary of State, the Secretary of Defense, and the heads of such other departments or agencies as the President may designate, may each make exceptions for his respective department or agency to the prohibition in section 4 and to the certificate requirement in subsection (a), upon a determination that the national security requires the shipment of the material, commodity, or cargo concerned on a vessel ineligible to carry such material, commodity, or cargo under the terms of sections 4(A) and 4(B).

(c) Each department or agency of the United States Government subject to subsection (a) shall collect and promptly transmit to the Secretary of Commerce for review in accordance with section 9(a) all certificates obtained under this section.

(d) All departments and agencies of the United States Government shall furnish to the Secretary of Commerce on a regular basis all information within their possession which may be pertinent to the enforcement of this Order.

SECTION 7. ENFORCEMENT BY SECRETARY OF COMMERCE.

(a) The Secretary of Commerce shall, within the scope of his responsibilities under this Order, issue such rules and regulations as he determines to be necessary to secure compliance with section 3(a), and shall make such exceptions to such section as he determines, after consultation with the Secretary of State, to be in the national interest.

(b) The Secretary of Commerce may, in individual cases, make exceptions to the prohibition in section 4 and to the certificate requirement in section 5(c) or 6(a), if the owner or the charterer, if any, applies for such an exception and establishes to the satisfaction of the Secretary of Commerce that his ineligibility under the terms of section 4 is due to the existence of circumstances beyond his control.

SECTION 8. MAINTENANCE OF LISTS BY SECRETARY OF COMMERCE.

(a) The Secretary of Commerce shall compile, keep current, publish, and regularly furnish to the Secretary of the Treasury lists of —

(1) all vessels which have, on or after the effective date of this Order, taken on and carried any material, commodity, or cargo of any kind originating in a country or area of the Sino-Soviet bloc and destined for Cuba, or originating in Cuba and destined for a country or area of the Sino-Soviet bloc,

(2) all persons, corporations, or other associations, any one or more of which own or control, or have, on or after the effective date of this Order, owned or controlled any vessel listed under paragraph (1), and

(3) all other vessels which are owned or controlled, or have, on or after the effective date of this Order, been owned or controlled by one or more of the persons, corporations, or other associations listed under paragraph (2).

(b) Whenever the Secretary of Commerce determines that any persons, corporations, or other associations listed under subsection (a)(2) do not own or control any vessel engaged in carrying any material, commodity, or cargo of any kind originating in a country or area of the Sino-Soviet bloc and destined for Cuba, or originating in Cuba and destined for a country or area of the Sino-Soviet bloc, or that any such persons, corporations, or other associations have been listed under subsection (a)(2) due to the existence of circumstances beyond their control, the Secretary of Commerce may, on such terms and conditions as he deems appropriate, remove any or all such persons, corporations, or other associations from the list published under subsection (a)(2) and any or all vessels owned or controlled by such persons, corporations, or other associations from the lists published under subsections (a)(1) and (a)(3).

(c) For purposes of the application of sections 4, 5(c), and 6(a) to any vessel or to any person, corporation, or other

association removed in accordance with subsection (b) from a list published under subsection (a), the effective date referred to in sections 4, 5(c), and 6(a) shall be deemed to be the date of removal from such list. The Secretary of Commerce shall give notice of any removal from a list published under subsection (a) to the persons, corporations, or other associations affected thereby, and to the Secretary of the Treasury.

SECTION 9. REVIEW OF CERTIFICATES BY SECRETARY OF COMMERCE.

(a) The Secretary of Commerce shall review certificates furnished under sections 5(b), 5(c), and 6(a) for the purpose of determining the truth of the information furnished in such certificates.

(b) Whenever the Secretary of Commerce has determined that false information has been furnished in a certificate, he may, by appropriate direction to the Secretary of the Treasury, prohibit any vessel registered under the laws of a foreign country and owned or controlled at the time of the determination by the certifying owner or charterer, from entering any port of the United States for such period, not to exceed 2 years from the date of such determination, as the Secretary of Commerce deems to be in the national interest. The Secretary of Commerce may, for such periods as he deems appropriate and on such terms and conditions as he may prescribe, stay or suspend the prohibition under this subsection whenever he finds such action warranted.

(c) Whenever the Secretary of Commerce has determined that false information has been furnished in a certificate and has imposed a prohibition under subsection (b), he shall promptly give notice, in such manner as he shall by regulation prescribe, to the person, corporation, or other association by whom or on whose behalf the certificate was made. Such person, corporation, or other association shall be afforded an opportunity to present to the Secretary of Commerce any information pertinent to such determination, and the Secretary of Commerce may, after receipt of such information, modify or rescind such prohibition.

(d) The Secretary of Commerce shall compile, keep current, publish, and regularly furnish to the Secretary of the Treasury lists of persons, corporations, or other associations subject to a prohibition imposed under subsection (b) and of all vessels owned or controlled by such persons, corporations, or other associations.

SECTION 10. DELEGATION OF FUNCTIONS.

The head of any agency or department of the United States Government exercising functions conferred upon him by this Order may delegate authority to perform any such functions, including, if he shall so specify, the authority successively to redelegate any such functions.

SECTION 11. EXISTING DISPOSITIONS.

Delegations and other assignments of authority made by this Order are additional to, and not in substitution for or in derogation of, any prior delegations or assignments of such authority.

SECTION 12. DEFINITIONS.

As used in this Order --

- (a) The term "cargo" shall include mail.
- (b) The term "country or area of the Sino-Soviet bloc" shall mean --

Albania

Bulgaria

Communist-controlled portions of China, Korea, and Viet-Nam

Czechoslovakia

Estonia

Hungary

Latvia

Lithuania

Outer Mongolia

Poland and areas under its provisional administration

Rumania

Soviet zone of Germany and Soviet sector of Berlin

Tibet

Union of Soviet Socialist Republics and areas in East Prussia under its provisional administration

(c) The term "Cuba" shall mean the territory on the island of Cuba, the Isle of Pines, and adjacent islands subject to Communist control.

(d) The term "controlled" as applied to vessels shall include control by means of charter parties.

(e) The term "port of the United States" shall mean any port of the continental United States, Hawaii, Alaska, Puerto Rico, the Virgin Islands, American Samoa, and Guam.

(f) The term "registered" shall include "documented".

(g) The term "weapons of war, munitions, or military equipment" shall include firearms, artillery and projectiles, ammunition, bombs, guided missiles, rockets, torpedoes, and mines, vessels of war and special naval equipment, tanks and ordinance vehicles, military aircraft and associated equipment, military training equipment, protective personnel equipment, and military electronic equipment.

SECTION 13. EFFECTIVE DATE OF ORDER.

The provisions of this Order shall become effective at 5:01 A.M. Greenwich time, on the fifth day following the day on which it is signed, except section 1, which shall become effective at 5:01 A.M. Greenwich time, on the first day following the day on which it is signed.

The White House,

October , 1962

DETERMINATION

CLOSING OF UNITED STATES PORTS TO VESSELS OF SOVIET UNION

Pursuant to the Executive Order signed today entitled "Prohibitions on Vessels Engaged in Trade with Cuba", I hereby determine that vessels registered under the laws of the Union of Soviet Socialist Republics have been engaged in carrying weapons of war, munitions, or military equipment to the Communist regime of Cuba.

Therefore, in accordance with the provisions of such Order, no vessel registered under the laws of the Union of Soviet Socialist Republics shall after this day enter any port of the United States.

The White House,

October , 1962